

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 622

*An Act to amend and reenact §§ 44-146.18 and 44-146.19 of the Code of Virginia, relating to emergency preparedness; report.*

[H 2816]

Approved March 18, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 44-146.18 and 44-146.19 of the Code of Virginia are amended and reenacted as follows:**

§ 44-146.18. Department of Emergency Services continued as Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.

(a) The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management. Wherever the words "State Department of Emergency Services" are used in any law of ~~this~~ *the* Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

(b) The State Department of Emergency Management shall in the administration of emergency services and disaster preparedness programs:

(1) *In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to and recover from all disasters including acts of terrorism;*

(2) *Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry and other public and private entities deemed vital to preparedness, public safety and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;*

(3) *Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision A 57 of § 2.2-3705 shall not be disclosed unless:*

(i) *It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;*

(ii) *The agency holding the record is served with a proper judicial order; or*

(iii) *The agency holding the record has obtained written consent to release the information from the State Department of Emergency Management;*

(4) *Promulgate plans and programs ~~which~~ that are conducive to adequate disaster mitigation preparedness, response and recovery programs;*

(2 5) *Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations and personnel as appropriate;*

(3 6) *Coordinate and administer disaster mitigation, preparedness, response and recovery plans and programs with the proponent federal, state and local government agencies and related groups;*

(4 7) *Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management programs, plans and systems;*

(5 8) *Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;*

(6 9) Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

(7 10) Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

(8 11) Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

(9 12) Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities;

(10 13) Develop standards, provide guidance and encourage the maintenance of local and state agency emergency operations plans;

(11 14) Prepare, maintain, coordinate or implement emergency resource management plans and programs with federal, state and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

(12 15) Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery; and

(13 16) Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor.

(c) The State Department of Emergency Management shall during a period of *impending emergency or* declared emergency be responsible for:

(1) The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;

(2) Providing facilities from which state agencies and supporting organizations may conduct emergency operations;

(3) Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;

(4) Establishing and maintaining liaison with affected political subdivisions;

(5) Determining requirements for disaster relief and recovery assistance;

(6) Coordinating disaster response actions of federal, state and volunteer relief agencies;

(7) Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

(d) The State Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

(e) The State Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

(f) *The State Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.*

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation,

preparedness, response and recovery. Each political subdivision may maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall have the authority to appoint a coordinator of emergency management with consent of council;

2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall have the authority to appoint a coordinator of emergency management with the consent of the governing body;

3. A coordinator of emergency management may be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;

4. In the case of the Town of Chincoteague and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall have the authority to appoint a coordinator of emergency services with consent of council;

5. In Smyth County and in York County, the chief administrative officer for the county may appoint a director of emergency management, with the consent of the governing body, who shall have the authority to appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds.

D. The director of each local organization for emergency management may, in collaboration with other public and private agencies within this Commonwealth or within an adjacent state, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command. Each political subdivision having a nuclear power station or other nuclear facility within ten miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

*F. All political subdivisions shall provide an annually updated emergency management assessment to the State Coordinator of Emergency Management on or before July 1 of each year.*

# VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

REENROLLED

## CHAPTER 1005

*An Act to amend and reenact § 9.1-400 of the Code of Virginia, relating to the Line of Duty Act; definitions.*

[S 822]

Approved April 2, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-400 of the Code of Virginia is amended and reenacted as follows:**

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain in the City of Virginia Beach; a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any agent, investigator, or inspector vested with the power to arrest pursuant to § 56-334; any regular or special game warden who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; *any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management ~~hazardous materials officer~~ who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in subdivision 6 of § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.*

"Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any position listed in the definition of deceased person in this section, has become mentally or physically incapacitated so as to prevent the further performance of duty where such incapacity is likely to be permanent.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.